

**§ 68a.11 How does an individual receive loan repayments beyond the initial two-year contract?**

An individual may apply for and the Secretary may grant extension contracts for one-year periods, if there is sufficient debt remaining to be repaid and the individual is engaged in approved clinical research as an NIH employee.

**§ 68a.12 What will happen if an individual does not comply with the terms and conditions of participation in the CR-LRP?**

(a) Absent withdrawal (see § 68a.2) or termination under paragraph (d) of this section, any participant who fails to complete the minimum two-year service obligation required under the Program contract will be considered to have breached the contract and will be subject to assessment of monetary damages and penalties as follows:

(1) Participants who leave during the first year of the initial contract are liable for amounts already paid by the NIH on behalf of the participant plus an amount equal to \$1,000 multiplied by the number of months of the original service obligation.

(2) Participants who leave during the second year of the contract are liable for amounts already paid by the NIH on behalf of the participant plus \$1,000 for each unserved month.

(b) Payments of any amount owed under paragraph (a) of this section shall be made within one year of the participant's breach (or such longer period as determined by the Secretary).

(c) Participants who sign a continuation contract for any year beyond the initial two-year period and fail to complete the one-year period specified are liable for the pro rata amount of any benefits advanced beyond the period of completed service.

(d) Terminations will not be considered a breach of contract in cases where such terminations are beyond the control of the participant as follows:

(1) Terminations for cause or for convenience of the Government will not be considered a breach of contract and monetary damages will not be assessed.

(2) Occasionally, a participant's research assignment may evolve and

change to the extent that the individual is no longer engaged in approved clinical research. Similarly, the research needs and priorities of the ICA and/or the NIH may change to the extent that a determination is made that the health professional's skills may be better utilized in a non-clinical research assignment. Under these circumstances, the following will apply:

(i) Program participation and benefits will cease as of the date an individual is no longer engaged in approved clinical research; and

(ii) Normally, job changes of this nature will not be considered a breach of contract on the part of either the NIH or the participant. Based on the recommendation of the ICA Director and concurrence of the Secretary, the participant will be released from the remainder of his or her service obligation without assessment of monetary penalties. The participant in this case will be permitted to retain all Program benefits made or owed by NIH on his/her behalf up to the date the individual is no longer engaged in approved clinical research, except the pro rata amount of any benefits advanced beyond the period of completed service.

**§ 68a.13 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?**

(a) Any obligation of a participant for service or payment to the Federal Government under this part will be canceled upon the death of the participant.

(b) The Secretary may waive or suspend any service or payment obligation incurred by the participant upon request whenever compliance by the participant:

(1) Is impossible,  
(2) Would involve extreme hardship to the participant, or

(3) If enforcement of the service or payment obligation would be against equity and good conscience.

(4) The Secretary may approve a request for a suspension of the service or payment obligations for a period of 1 year. A renewal of this suspension may also be granted.

(c) Compliance by a participant with a service or payment obligation will be

#### **§ 68a.14**

considered impossible if the Secretary determines, on the basis of such information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) In determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of such information and documentation as may be required, will consider:

(1) The participant's present financial resources and obligations;

(2) The participant's estimated future financial resources and obligations; and

(3) The extent to which the participant has problems of a personal nature, such as a physical or mental disability or terminal illness in the immediate family, which so intrude on the participant's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

#### **§ 68a.14 When can a CR-LRP payment obligation be discharged in bankruptcy?**

Any payment obligation incurred under § 68a.12 may be discharged in bankruptcy under Title 11 of the United States Code only if such dis-

#### **42 CFR Ch. I (10-1-00 Edition)**

charge is granted after the expiration of the five-year period beginning on the first date that payment is required and only if the bankruptcy court finds that a nondischarge of the obligation would be unconscionable.

#### **§ 68a.15 Additional conditions.**

When a shortage of funds exists, participants may be funded partially, as determined by the Secretary. However, once a CR-LRP contract has been signed by both parties, the Secretary will obligate such funds as necessary to ensure that sufficient funds will be available to pay benefits for the duration of the period of obligated service unless, by mutual written agreement between the Secretary and the applicant, specified otherwise. Benefits will be paid on a quarterly basis after each service period unless specified otherwise by mutual written agreement between the Secretary and the applicant. The Secretary may impose additional conditions as deemed necessary.

#### **§ 68a.16 What other regulations and statutes apply?**

Several other regulations and statutes apply to this part. These include, but are not necessarily limited to:

Debt Collection Act of 1982, Pub. L. 97-365 (5 U.S.C. 5514);

Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*);

Federal Debt Collection Procedures Act of 1990, Pub. L. 101-647 (28 U.S.C. 1); and

Privacy Act of 1974 (5 U.S.C. 552a).